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RICHARD H. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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SONY BMG MUSIC ENTERTAINMENT;
UMG RECORDINGS, INC.;
INTERSCOPE RECORDS; WARNER
BROS. RECORDS INC.; and ARISTA
RECORDS LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMC

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SONY BMG MUSIC ENTERTAINMENT, a
Delaware general partnership; UMG
RECORDINGS, INC., a Delaware corporation;
INTERSCOPE RECORDS, a California general
partnership; WARNER BROS. RECORDS
INC., a Delaware corporation; and ARISTA
RECORDS LLC, a Delaware limited liability
company,

Plaintiffs,

v.

JOHN DOE #3,

Defendant.

CASE NO.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

Complaint for Copyright Infringement

Case No.

#32423 v1

JURISDICTION AND VENUE

1
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant John Doe #3 (“Defendant”) is unknown to Plaintiffs at this time, on
8 information and belief, Defendant may be found in this District and/or a substantial part of the acts
9 of infringement complained of herein occurred in this District. On information and belief, personal
10 jurisdiction in this District is proper because Defendant, without consent or permission of the
11 copyright owner, disseminated over the Internet copyrighted works owned and/or controlled by
12 Plaintiffs. On information and belief, such illegal dissemination occurred in every jurisdiction in the
13 United States, including this one. In addition, Defendant contracted with an Internet Service
14 Provider (“ISP”) found in this District to provide Defendant with the access to the Internet which
15 facilitated Defendant’s infringing activities.

16 **PARTIES**

17 4. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general
18 partnership, with its principal place of business in the State of New York.

19 5. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the
20 laws of the State of Delaware, with its principal place of business in the State of California.

21 6. Plaintiff Interscope Records is a California general partnership, with its principal
22 place of business in the State of California.

23 7. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing
24 under the laws of the State of Delaware, with its principal place of business in the State of
25 California.

26 8. Plaintiff Arista Records LLC is a limited liability company duly organized and
27 existing under the laws of the State of Delaware, with its principal place of business in the State of
28 New York.

1 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously
 2 downloaded and/or distributed to the public additional sound recordings owned by or exclusively
 3 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of
 4 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being
 5 distributed by Defendant.)

6 14. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on
 7 each respective album cover of each of the sound recordings identified in Exhibit A. These notices
 8 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.
 9 These published copies were widely available, and each of the published copies of the sound
 10 recordings identified in Exhibit A was accessible by Defendant.

11 15. Plaintiffs are informed and believe that the foregoing acts of infringement have been
 12 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

13 16. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights
 14 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against
 15 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to
 16 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

17 17. The conduct of Defendant is causing and, unless enjoined and restrained by this
 18 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated
 19 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502
 20 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing
 21 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound
 22 recordings made in violation of Plaintiffs' exclusive rights.

23 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

24 1. For an injunction providing:

25 "Defendant shall be and hereby is enjoined from directly or indirectly
 26 infringing Plaintiffs' rights under federal or state law in the
 27 Copyrighted Recordings and any sound recording, whether now in
 28 existence or later created, that is owned or controlled by Plaintiffs (or
 any parent, subsidiary, or affiliate record label of Plaintiffs)
 ("Plaintiffs' Recordings"), including without limitation by using the
 Internet or any online media distribution system to reproduce (*i.e.*,
 download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload)

any of Plaintiffs' Recordings, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.

3. For Plaintiffs' costs in this action.

4. For Plaintiffs' reasonable attorneys' fees incurred herein.

5. For such other and further relief as the Court may deem just and proper.

Dated: September 20, 2007

HOLME ROBERTS & OWEN LLP

By: 

MATTHEW FRANKLIN JAKSA
Attorney for Plaintiffs
SONY BMG MUSIC
ENTERTAINMENT; UMG
RECORDINGS, INC.; INTERSCOPE
RECORDS; WARNER BROS.
RECORDS INC.; and ARISTA
RECORDS LLC

EXHIBIT A**JOHN DOE # 3****IP Address:** 129.210.186.76 2007-06-06 16:43:38 EDT**CASE ID#** 132018648**P2P Network:** Gnutella**Total Audio Files:** 482

| <u>Copyright Owner</u> | <u>Artist</u> | <u>Recording Title</u> | <u>Album Title</u> | <u>SR#</u> |
|---------------------------------|---------------|----------------------------------|--|------------|
| SONY BMG MUSIC ENTERTAINMENT | Incubus | Stellar | Make Yourself | 278-818 |
| UMG Recordings, Inc. | 311 | Freak Out | Music | 149-193 |
| Interscope Records | Dr. Dre | Still D.R.E. | 2001 | 277-983 |
| UMG Recordings, Inc. | Young Jeezy | Soul Survivor | Let's Get It: Thug Motivation 101 | 375-159 |
| Warner Bros. Records Inc. | Linkin Park | A Place For My Head | Hybrid Theory | 288-402 |
| Arista Records LLC | Clipse | Young Boy | Lord Willin' | 321-673 |
| UMG Recordings, Inc. | Jadakiss | Kiss of Death | Kiss of Death | 356-267 |
| UMG Recordings, Inc. | Blink-182 | Anthem | Enema of the State | 279-826 |
| SONY BMG MUSIC ENTERTAINMENT | Modest Mouse | The Good Times Are Killing Me | Good News For People Who Love Bad News | 353-218 |
| SONY BMG MUSIC ENTERTAINMENT | Train | Train | Train | 298-334 |